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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,496	07/23/2003	Karine A. Luetgert	16240.231A	7871

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EXAMINER

LORENZO, JERRY A

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,496

Applicant(s)

LUETGERT ET AL.

Examiner

Jerry A Lorengo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

(1)

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 37, 38, 42, 43, 44, 45 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 816122 to Misumi et al.

Regarding applicant claim 37, Misumi et al. disclose a decorated wood composite comprising (Figures 1-5B; column 1, lines 9-17; column 1, lines 26-31; column 4, lines 18-21; column 6, lines 19-24; column 7, lines 12-16; column 9, lines 5-44; column 11, lines 10-32):

(1) A wood composite substrate1;

(2) One or more foil pieces uniformly coating at least one portion 2 of a surface of the wood composite 1; and

(3) An overlay foil uniformly coating the surface of the wood composite 1.

Regarding applicant claim 38, Misumi et al. discloses (as shown in Figure 1) that the wood composite has a smooth surface.

Regarding applicant claims 42, 43, 45 and 46, Misumi et al. disclose that the wood composite 1 comprises plywood, laminated lumber, particle board, MDF, plasterboard, molded resin or metal or a lamination or composite thereof. Misumi et al. specifically suggests the use of wood composite such as a molded medium density fiberboard, i.e., MDF, having both flat and contoured surface portions (Figures 1-5B; column 5, lines 23-32).

Regarding applicant claim 44, Misumi et al. disclose that the overlaying foil (protective layer) may be applied only over those regions of the wood composite having the foil pieces 2 applied thereto or on both the foil pieces 2 and other regions of the wood composite surface on which the foil pieces 2 have not been applied (column 11, lines 10-32), in which case the overlaying foil of Misumi et al. would be on, i.e., in contact with, the surface of the wood composite in regions not having foil pieces 2 applied thereto.

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(2)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 816122 to Misumi et al.

Misumi et al., as set forth in section (1), above, disclose that the wood composite 1 comprises plywood, laminated lumber, particle board, MDF, plasterboard, molded resin or metal or a lamination or composite thereof.

Although they do not specifically disclose the thickness of the wood composite 1, as set forth in applicant claims 47 and 48, the particular nature of the wood composite employed, its composition, and/or physical properties would have been obvious to one having ordinary skill in

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the art based upon considerations of cost, availability, bond strength, mode of use or environmental preference. Typically, selection of the proper material may be achieved in the course of routine experimentation, by reference to standard technical literature, or through consultation with industrial or specialty suppliers.

(3)

Claims 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 816122 to Misumi et al. in view of U.S. patent No. 4,771,687 to Daunheimer.

Although Misumi et al., as set forth in section (1), above, disclose that the wood composite may comprise a molded medium density fiberboard, i.e., MDF, having both flat and contoured surface portions, they do not specifically disclose, as per applicant claims 39-41, that the wood composite 1 comprises a textured surface which has been embossed with a grain pattern.

Nonetheless, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the surface of the wood composite 1 with a textured surface, such as an embossed grain pattern, motivated by the fact that Daunheimer, also drawn to methods for the formation of decorated wood composite doors formed through transfer decoration, discloses that the provision of a wood composite panel P1 with an embossed wood-like (grain) texture, in combination with a transfer printed design thereon, more fully simulates the appearance of a door constructed of cut and formed pieces of wood (Figure 1; column 3, lines 14-21).

(4)

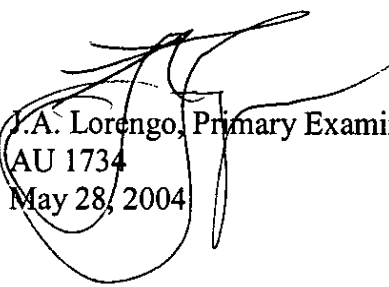
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry A Lorengo whose telephone number is (571) 272-1233. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J.A. Lorengo, Primary Examiner
AU 1734
May 28, 2004